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BWS PROPERTIES, LLC, )  
 )  
 Plaintiff, ) No. 1:24-cv-00029  
 )  
 vs. ) Judge Christopher H. Steger  
 )  
 AIRGAS USA, LLC, ) Non-Jury  
 )  
 Defendant. )

DEPOSITION OF DAWN VAN DYKE

April 23, 2025

1           MR. ROBISON: I think this is consistent with  
2 the email that you sent to me on Tuesday.

3           So I anticipate that we're going to be looking  
4 at Topics 3 and 4, 8 through 13 -- you know, and,  
5 obviously, a couple of those have some limitations,  
6 because we're not looking for attorney/client  
7 conversations. And, I believe Topics 25 and 28 also  
8 relate to leases, which are Ms. Van Dyke's area of  
9 work.

10           MS. WOLINSKY: That's what I had.

11           EXAMINATION BY MS. WOLINSKY:

12           Q           And, Ms. Van Dyke, just to confirm, are you  
13 prepared to -- and we can look at these just to make --  
14 to confirm. So Counsel just listed 3 and 4, which I have  
15 highlighted here. Are you prepared to testify to those  
16 topics today?

17           A           Yes.

18           Q           Okay. And then I'll break these up a little  
19 bit. And then you'll see 8 through 13 here. Feel free  
20 to read them if you need to; but, once you've been able  
21 to read through them, are you prepared to testify to  
22 these topics today?

23           A           Yes.

24           Q           And then Counsel also listed 25 and 28. Again,  
25 please feel free to take your time to read them; but,

1       once you have, are you prepared to testify to those  
2       topics today as well?

3       A           Yes.

4               MS. WOLINSKY: And, again, we will mark this as  
5       Exhibit 1.

6       EXAMINATION BY MS. WOLINSKY:

7       Q           What did you do to prepare for today's  
8       deposition, with the caveat that I don't want to know  
9       what you talked about with counsel?

10      A           Just looked back at the documents to get  
11      more familiar with the dates, looked back at some  
12      emails.

13      Q           And, again, not asking for communications with  
14      counsel, but did you meet with counsel prior to the  
15      deposition?

16      A           Yes. We spoke.

17      Q           And around about when did that take place?

18      A           Yesterday.

19      Q           Were there any additional documents that you  
20      searched for or had to review that were not -- that have  
21      not yet been produced in this lawsuit?

22      A           I'm not sure what you're asking.

23      Q           Yeah. I can rephrase it.

24               In preparing for the deposition, did you have to  
25      go look for any documents that couldn't be provided to

1       you in the course of preparation?

2       A           I think the only document that I produced was an  
3       occupancy report.

4       Q           And what was that occupancy report?

5       A           It just has the expenses, grouped expenses, that  
6       were paid for that property.

7       Q           Okay. I'm going to show you what we're going to  
8       mark as Exhibit 2.

9                               (Whereupon, said document was  
10                              received and marked as  
11                              Exhibit Number 2.)

12       EXAMINATION BY MS. WOLINSKY:

13       Q           Do you see a document entitled: "Defendant  
14       Airgas USA, LLC's, Answer to Complaint"?

15       A           Yes.

16       Q           And I'm happy to scroll through just real quick.  
17       If there's anything you want to look at in more detail,  
18       I'm happy to do so; but I just want to make sure you see  
19       the full document. And, again, please feel free -- if  
20       you'd like to see this in more detail, I'm more than  
21       happy to do so.

22                    But Airgas submitted an answer in this lawsuit.  
23       Is that correct?

24       A           Yes.

25       Q           And did you ever look at a copy of the answer?

1 A I believe so. Yes, I did.

2 Q And, again, happy to scroll through in more  
3 detail, but is this the answer -- does this appear to be  
4 the answer that Airgas submitted in this lawsuit?

5 A I believe so, yes.

6 Q I'm going to show you what we're going to mark  
7 as Exhibit 3. One moment.

8 Before I show you that, actually, did you assist  
9 in preparing the answer?

10 A To what extent? I ...

11 Q Did you review the answer before it was filed?

12 A I did review the answer.

13 Q Okay. And then I'll show you what we're going  
14 to mark as Exhibit 3.

15 (Whereupon, a document was  
16 received and marked as  
17 Exhibit Number 3.)

18 EXAMINATION BY MS. WOLINSKY:

19 Q And, just for the record, this is entitled:  
20 "Rule 26(a)(1) Disclosures of Defendant Airgas USA, LLC."  
21 Once again, if you would like to see it in more detail,  
22 please stop me, and I'll be happy to do so; but I just  
23 want to make sure that you're able to see the entirety of  
24 the document.

25 Did Airgas submit initial disclosures in this

1 lawsuit?

2 A I don't know. I'm not sure what you're -- what  
3 disclosures you're --

4 Q Did you ever -- have you seen this document  
5 before today?

6 A Yes, I believe so. I don't remember everything  
7 that -- I don't have documents memorized.

8 Q Entirely fair. Entirely fair. Based on what  
9 you're seeing here in front of you, does this appear to  
10 be the initial disclosures that Airgas filed -- or  
11 submitted -- excuse me -- in this action?

12 A It appears to be.

13 Q Okay. Thank you.

14 Getting into a little bit of Airgas's  
15 discovery or responses today -- and, of course, we're in  
16 the midst of discovery that -- in depositions -- can you  
17 tell me what your role has been to date -- again, I'm  
18 not asking for any communications with counsel -- but  
19 your role in responding to and preparing discovery  
20 responses.

21 A I provided -- I did a search on my computer of  
22 emails that were related to the property and uploaded  
23 those. Any other documents that were real-estate  
24 documents on the server, I uploaded those.

25 Q Did you assist in drafting the written

1 responses?

2 A No.

3 Q Do you know who did assist in drafting --  
4 and, again, I'm not asking if they were communications  
5 with counsel -- but do you know who from Airgas  
6 assisted with the written responses to discovery  
7 requests?

8 A I believe our counsel drafted the response.

9 Q And did you have any additional role in  
10 gathering documents, other than what you just described?

11 A Can you be more specific on which documents?

12 Q Just generally. Did you coordinate with  
13 others -- for example, Peter Van Slyke or Tracey Harvey  
14 or any other -- other people at Airgas -- in collecting  
15 documents that would be responsive and produced in this  
16 action?

17 A I did not. I only collected the documents that  
18 I had on my computer.

19 Q Have you reviewed all of the documents that  
20 Airgas has produced to date?

21 A Only the ones that I provided.

22 Q And, just to confirm, did -- have you reviewed  
23 documents that are Bates labeled all the way from  
24 1 to 275, which just means two hundred and seventy-five  
25 pages of documents?

1 A I don't know how many pages.

2 Q And I apologize if I already asked this  
3 specifically, but -- and not talking about the written  
4 responses -- but document production, do you know who  
5 else assisted in gathering documents for production in  
6 this action?

7 A I do not.

8 Q Can you please describe for me -- or can you  
9 describe for me Airgas's efforts to preserve and collect  
10 documents in this lawsuit generally.

11 A So the documents that we have have been uploaded  
12 to a -- my Google drive, and that's where they've stayed.  
13 I pulled all the documents that were on the real-estate  
14 server and put them all in the same folder on my Google  
15 drive.

16 Q And do you know how -- what other preservation  
17 or collection steps were taken within Airgas, generally,  
18 by others, say like Peter Van Slyke or Tracey Harvey or  
19 anyone else that you can recall?

20 A I do not.

21 Q How -- can you describe for me how you conducted  
22 the search to find the documents that you then added to  
23 one drive that were then produced to us -- or excuse  
24 me -- to BWS?

25 A I did a search of the word "Chattanooga" and



1 was the property owned, leased, rented or otherwise by  
2 Airgas?

3 A Leased.

4 Q And how long did Airgas lease the property?

5 A I believe since 2005. I would have to --

6 Q And -- I'm sorry. Continue.

7 A I was just going to say I would have to look at  
8 the original lease.

9 Q And I'll go -- I didn't hear the date you said.  
10 What was the first date, if you can recall?

11 A I believe it was since 2005.

12 Q And was there a relationship between Airgas and  
13 BWS prior to 2005 at all?

14 A I don't know.

15 Q So what was the date of the final lease between  
16 BWS and Airgas?

17 A The last lease was 2021, I believe.

18 Q And, just for ease of reference, I will pull it  
19 up real quick. Did a new document pop up for you?

20 A It did.

21 Q Okay. And I'll go ahead and just put this in,  
22 since we're looking at it, as Exhibit 8.

23 (Whereupon, said document was  
24 received and marked as  
25 Exhibit Number 8.)

1 Q And, just for clarification purposes, from  
2 2005 to the start of the new lease, June 1, 2022 --  
3 we'll talk about the actual lease period in a  
4 moment -- how was Airgas paying BWS rent during that  
5 period?

6 A Prior to 2013, I have no knowledge of that; but,  
7 after 2013, they -- it was a monthly check.

8 Q And when -- at what point during the month was  
9 that payment made?

10 A They processed payments on the 20th of the month  
11 prior to it being due.

12 Q And was -- processing it on the 20th, around  
13 what date would it have actually been paid?

14 A It varied, depending on -- some people have  
15 direct deposit; and some people have checks, so it goes  
16 through the mail.

17 Q And do you recall, during the 2013 period to  
18 June 1, 2022, whether it was deposited via check or  
19 electronic deposit for Airgas's payment to BWS?

20 A I believe it was check.

21 Q And, then, for the last lease period -- so  
22 June 2022 -- and I can show you a document that I'll  
23 represent to you is ending May 31st, 2023 -- how was  
24 Airgas paying its monthly rent to BWS?

25 A When was the -- when are you asking about

1 again?

2 Q So the last lease period, which the lease  
3 began -- its effective date was June 1st, 2022 -- and, as  
4 I said, I'm happy to show you the document -- but I will  
5 represent to you that it ended May 31st of 2023. During  
6 that period, how did Airgas make its monthly rent payment  
7 to BWS?

8 A I believe checks, but I'm not -- I'm not  
9 completely sure if she was set up on direct deposit or  
10 not.

11 Q And who was the individual that was responsible  
12 for getting the payment processed and sent to BWS during  
13 the 2022 to 2023 time period?

14 A Our accounts-payable department.

15 Q Was there a specific individual or just whoever  
16 in the department had it at that time?

17 A It -- there -- it changes. It varied, I  
18 believe.

19 Q And, during this 2022 to 2023 time period, did  
20 Airgas always pay the monthly rent on time?

21 A I think there were a couple of times where she  
22 would reach out and say she hadn't received the check  
23 yet, and I would follow up with our accounts payable  
24 department to check the status of it and issue a new  
25 check if it needed to be; but I think, the majority of

1 the time, she received it on time.

2 Q Was Airgas required to have insurance for the  
3 property during the 2022 to 2023 time period?

4 A I believe BWS carried the insurance on the  
5 property.

6 Q And did Airgas -- was Airgas responsible for  
7 paying for that insurance?

8 A Responsible for reimbursing BWS.

9 Q And can you describe for me how that  
10 reimbursement process worked.

11 A Jennifer would send me -- Jennifer Nevans would  
12 send me an email with the proof of payment and a copy of  
13 the bill and invoice.

14 Q And, then, once that was received, what was the  
15 process for getting that reimbursement issued?

16 A I would forward it to our accounts-payable  
17 department and ask them to process it for payment.

18 Q And, from the time the -- Ms. Nevans sent you  
19 that documentation to the time reimbursement was actually  
20 issued, about how long would that be?

21 A I would forward it as soon as I got it.

22 Q And about how long was the turnaround for  
23 accounts payable?

24 A I'm not sure. I -- I'm not sure what their  
25 turnaround time is.

1 Q And was the reimbursement via check or  
2 electronic deposit during the 2022 to the 2023 time  
3 period?

4 A It would -- I believe by check. It would depend  
5 on -- however she was set up to be paid her monthly rent  
6 is how it would have been paid.

7 Q Okay. And, then, prior to the last lease  
8 period -- again, which was 2022 to 2023 -- was  
9 there a time that Airgas was responsible for holding  
10 and paying for insurance without having to reimburse  
11 BWS?

12 A Prior to -- when are you asking?

13 Q Prior to 2022.

14 A I believe, at some point -- and I'm not sure  
15 when it was -- I think it was before me or before I  
16 started working at Airgas, I believe -- that Airgas was  
17 responsible for the insurance at one point.

18 Q Do you know at what point that changed to  
19 reimbursing BWS instead of paying directly?

20 A Not off the top of my head. I would have to  
21 look at documents.

22 Q And do you recall why that change occurred?

23 A I don't know.

24 Q Does Airgas still have an insurance policy in  
25 effect for the property?

1 A Does Airgas?

2 Q Yes.

3 A I'm -- I don't know.

4 Q What was Airgas's responsibility relating  
5 to payment of taxes, of property taxes, for the  
6 property?

7 A To reimburse Ms. Nevans.

8 Q And was that also true prior to 2022?

9 A Yes.

10 Q Can you describe for me Airgas's process of  
11 reimbursing BWS for property taxes.

12 A They would issue a check for the amount that she  
13 had paid.

14 Q Was there specific documentation you would  
15 receive or a confirmation email?

16 A She would send the copies of checks where she  
17 paid it and the tax bill, along with an invoice.

18 Q And, similar to the insurance, as soon as you  
19 received it, did you forward it onward to accounts  
20 payable?

21 A I did.

22 Q And, for reimbursement of taxes and insurance,  
23 was there a specific person in accounts payable  
24 responsible for that aspect of it, or was it just whoever  
25 was available?

1           A           It varies. I'm not a part of that department,  
2           so I'm not completely sure.

3           Q           Similar to having a favorite secretary, I wasn't  
4           sure if you had a favorite accounts-payable person that  
5           would take care of things for you.

6           A           No.

7           Q           My secretary's my favorite, so I just have to  
8           ask.

9                       Does Airgas owe any outstanding amounts at  
10          present for reimburse of property taxes and insurance for  
11          the property under the 2022 to 2023 lease?

12          A           I believe for the five months in 2023.

13          Q           Do you know why that has currently not been  
14          paid?

15          A           They never received -- or I haven't received  
16          proof of payment.

17          Q           If you received proof of payment today, what  
18          would be your next step?

19          A           I would submit it to legal and ask them how to  
20          handle it.

21          Q           And, by "proof of payment," what exactly were  
22          you -- are you meaning by "proof of payment"?

23          A           A check where it was paid.

24          Q           I'm going to show you what we're going to mark  
25          as Exhibit 9.

1 (Whereupon, a document was  
2 received and marked as  
3 Exhibit Number 9.)

4 MS. WOLINSKY: And if you'll just give me one  
5 moment.

6 Did a new document pop up for you?

7 THE WITNESS: It did.

8 MS. WOLINSKY: Okay.

9 EXAMINATION BY MS. WOLINSKY:

10 Q Okay. And there's only two pages, so I'm just  
11 going to scroll through briefly. Again, if you need me  
12 to zoom in or slow down or if there's something you want  
13 to look at more closely, please let me know.

14 Do you recall receiving one or both of these  
15 invoices?

16 A I recall receiving one, 531.

17 Q The May 31st, 2023, invoice?

18 A Yes.

19 Q How did you receive this invoice?

20 A She emailed it.

21 Q And, when you received it, what did you do with  
22 it?

23 A I forwarded it to -- I think I forwarded it to  
24 our legal department.

25 Q Did you respond to Ms. Nevans at all?



1 A I don't recall.

2 Q Do you recall if you told her that you  
3 needed any additional documentation outside of the  
4 invoice?

5 A I don't recall.

6 Q And, then, do you recall -- just to confirm, do  
7 you recall receiving this invoice (indicating)?

8 A I don't recall receiving this one.

9 Q And, just for clarity, this is the  
10 January 3rd, 2024, invoice.

11 A Yes. I see that.

12 Q Yes.

13 A But I don't recall receiving that one.

14 Q Yes. Sorry. That was just for clarity for  
15 the record so it's clear which one we were talking  
16 about.

17 What types of utilities were used by Airgas at  
18 the property for 2022 to 2023?

19 A I believe electric, water, gas, just the  
20 standard utilities.

21 Q Did Airgas pay for utilities directly to the  
22 utility companies, or did they reimburse BWS?

23 A They paid directly to the utility company.

24 Q And who was the individual that was responsible  
25 for paying utilities?

1 A I'm not sure.

2 Q And do you know what the time of those payments  
3 were each month?

4 A I do not.

5 Q And let me back up. Do you know if it was a  
6 monthly payment, bimonthly or an annual payment to the  
7 different utilities?

8 A I do not know.

9 Q And are you aware of whether these utilities  
10 were always paid on time?

11 A I have no knowledge of that.

12 Q Were any late payments -- excluding the  
13 utilities, since that was paid directly to the utility  
14 company -- but, for the property taxes and insurance and  
15 rent, for any late payments, was there an additional fee  
16 that Airgas would pay to BWS?

17 A I believe, if there was a late fee on an invoice  
18 or something, it would get paid, a late fee would get  
19 paid; but I don't have any specific knowledge of that  
20 situation.

21 MS. WOLINSKY: All right. We have been going  
22 about an hour. I'm just going to reorganize myself a  
23 little bit. We're going take a quick break.

24 And you can just mute or if you want to turn off  
25 your cameras, but just making sure. And I'll be back

1 on -- give me about five minutes. If you need longer,  
2 take it. Don't worry about it. But give me five  
3 minutes.

4 (Whereupon, a brief recess was held.)

5 MS. WOLINSKY: I'm going to show you what we're  
6 going to mark as Exhibit 10.

7 (Whereupon, a document was  
8 received and marked as  
9 Exhibit Number 10.)

10 MS. WOLINSKY: Did the document pop up for you?

11 THE WITNESS: It did.

12 EXAMINATION BY MS. WOLINSKY:

13 Q And just -- this is two pages, but all of the  
14 content is on the first page; so I'm just going to leave  
15 it on the first page. If you wouldn't mind just  
16 reviewing that for me and letting me know when you're  
17 good to go.

18 A Okay. I'm good.

19 Q Earlier, we had talked about negotiations  
20 between yourself and Ms. Nevans regarding the lease that  
21 was effective June 1, 2022. If you look middle-ish of  
22 the email, it looks like you're asking: "Would you  
23 consider doing a six- to nine-month lease at the rate  
24 proposed in the lease you sent in October?"

25 Can you describe for me -- first of all, do you

1       see that in the email?

2       A           I do.

3       Q           Can you describe for me what you're asking her  
4       to consider there.

5       A           I believe that she had sent a lease -- a lease  
6       proposal in October. I would have to go back and look to  
7       see what those terms were.

8       Q           And, just to confirm, earlier, it was -- the  
9       lease was ultimately drafted and executed for a one-year  
10      term. Is that correct?

11      A           Correct.

12      Q           Do you recall why a six- to nine-month lease  
13      wasn't created?

14      A           They were not willing to do that.

15      Q           And, at the point in time of this email that I  
16      just read, dated November 17th, 2021, at that point, was  
17      Airgas aware it was going to potentially be moving to a  
18      facility other than the property?

19      A           I -- I don't believe anything definite had been  
20      decided at that time.

21      Q           What was being discussed at that time with  
22      regard to the property and potentially going to another  
23      property?

24      A           I -- I wasn't involved in those discussions,  
25      so -- I believe, though, they were looking at our owned

1 property to see if that would -- if that would be an  
2 option.

3 Q And, when you say your owned property, what was  
4 that?

5 A Airgas owns a property that I believe is a few  
6 miles from the leased property.

7 Q Who was involved with discussions regarding  
8 whether to leave the property with BWS to go to Airgas's  
9 property?

10 A That would have been the CFO, the president, the  
11 area vice-president.

12 Q And at what point did you become aware that it  
13 had been decided that Airgas would be leaving the  
14 property to go to another Airgas property?

15 A It would have been around the time that we sent  
16 notice that we weren't going to be renewing.

17 Q And was that communicated to others in -- within  
18 Airgas prior to that termination or that notice being  
19 sent to BWS?

20 A I'm not sure. I only know when it was told to  
21 me.

22 Q And tell me about the conversation you had  
23 where you found out that that's what was going to  
24 happen.

25 A My CFO probably would have told me that: "We're

1 not going to renew, and draft -- draft the notice that  
2 we're not renewing."

3 Q And did you draft a notice to BWS that you would  
4 not be renewing?

5 A I drafted a letter for our CFO to sign.

6 Q I'm going to show you what we're going to mark  
7 as Exhibit 11.

8 (Whereupon, a document was  
9 received and marked as  
10 Exhibit Number 11.)

11 MS. WOLINSKY: And, just for the record, this is  
12 a letter dated February 6, 2023, produced at BWS 59.

13 EXAMINATION BY MS. WOLINSKY:

14 Q Please feel free to take the time to review  
15 it; but, once you've done so, is this the letter that  
16 you just mentioned regarding notice of termination to  
17 BWS?

18 A Yes.

19 Q And, again, did you draft this letter?

20 A Yes.

21 Q And is this a letter that you drafted from  
22 scratch, or is it a form letter?

23 A It's -- I probably drafted this from scratch.  
24 I -- we do have form letters that we can use, but I  
25 believe I drafted this from scratch.

1 Q What would be your process for drafting this  
2 letter?

3 A I just reviewed the lease -- and that's where I  
4 got pursuant to the section of the lease -- and then just  
5 wrote the letter.

6 Q And does -- is there anyone else that had input  
7 into or assisted with drafting this letter?

8 A No.

9 Q And, then, at what point would you have sent it  
10 to Mr. Donato? At the time that it was finished, or when  
11 he had provided input?

12 A At the time it was finished.

13 Q And, then, once he executed the letter, who sent  
14 the letter to BWS?

15 A I sent it through overnight mail.

16 Q And then does this letter set out when the lease  
17 will terminate?

18 A Yes.

19 Q And what date is that?

20 A May 31st, 2023.

21 Q So this letter is dated February 6, 2023. How  
22 long would you say -- between the decision to not go  
23 forward at the property and sending this notice, how much  
24 time elapsed between those two?

25 A I don't know.

1 Q Why did Airgas decide that it no longer wanted  
2 to stay at the property and, instead, go to another  
3 Airgas property?

4 A Because of the amount that the rent was  
5 increasing. It was more cost effective to move to the  
6 owned property.

7 Q In 2023 -- which, again, this letter references  
8 that the lease would terminated May 31st, 2023. In 2023,  
9 what were Airgas's policies or procedures for terminating  
10 a lease?

11 A It depends on what it said in the lease. If  
12 it -- if the lease says that we had to provide a  
13 termination notice, then that's what we would do.

14 Q And, once you've reviewed the lease, determined  
15 when notice needs to be given and then given that notice,  
16 what are the next steps or the procedures after that for  
17 preparing to vacate that property?

18 A A lot of times, the -- we will have weekly or  
19 biweekly phone meetings to determine next steps.

20 Q And who would those calls have been with in  
21 this -- in relation to this property and lease?

22 A The CFO, area vice-president and, sometimes, I  
23 believe, maybe some -- a representative from the  
24 financial team.

25 Q Would anyone onsite at the property have been



1 involved in those communications?

2 A I believe that would have been the area  
3 vice-president. They're not always onsite. In some  
4 locations, they are; but they don't necessarily have --  
5 the area vice-president doesn't have to be onsite at  
6 every property.

7 Q And, in the 2023 January to May time period,  
8 remind me, who was the vice-president that would have  
9 been associated with the property?

10 A The area vice-president?

11 Q Yes, ma'am.

12 A I'm not exactly sure. I know there's a  
13 different one now, and I'm not a hundred-percent sure of  
14 when that change took place.

15 Q Do you recall anyone else that was involved in  
16 those phone calls planning the termination of the lease  
17 and vacating the property?

18 A I don't recall everybody else. I don't recall.

19 Q And tell me what you remember about the content  
20 of those phone calls.

21 A I believe there was property that had to be  
22 moved, assets that had to be moved to the other property.  
23 There was construction going on at the other property,  
24 some renovations going on at the other property, things  
25 like that.

1 Q Were there instructions given to the individuals  
2 onsite at the property about the process for moving out,  
3 how to get everything from the property to Airgas's  
4 property?

5 A There were discussions on who would take care of  
6 it.

7 Q And who was tasked with taking care of it?

8 A I don't recall.

9 Q Do you recall any communications with  
10 Peter Van Slyke about the property and -- or strike  
11 that.

12 Do you recall conversations with Peter Van Slyke  
13 about moving out of the property to the other Airgas  
14 property?

15 A Yes.

16 Q Tell me about those communications.

17 A Like is there something specific?

18 Q Just tell me what you remember about the  
19 conversations that were had with Peter Van Slyke about  
20 that specifically.

21 A They would have just been about moving things  
22 from one property to the other.

23 Q Were there discussions about the people that  
24 would help with that move or how that would be  
25 accomplished?

1 A Not with me.

2 Q Do you know who would have had those  
3 conversations with someone at the property?

4 A I do not.

5 Q Are you aware of any conversations happening  
6 with someone in upper management at Airgas and then  
7 someone at the property about how they should move out of  
8 the property into Airgas's new location?

9 A I -- I don't know.

10 Q Did you have any communications with anyone at  
11 the property about how the move-out was going?

12 A I believe I asked if everything was moved  
13 out, and I'm pretty sure I was told everything was moved  
14 out; and that's when we wanted to coordinate a  
15 walkthrough.

16 Q And who were you speaking with that told you  
17 everything had been moved out?

18 A Peter Van Slyke.

19 Q Are you aware of anyone else -- or who else at  
20 Airgas communicated with Airgas employees at the property  
21 about how the move-out was going?

22 A I'm not sure.

23 Q Tell me -- you mentioned talking to  
24 Peter Van Slyke about a walkthrough. What walkthrough  
25 are you referring to?

1 Q Is that the bottom right?

2 A Yes.

3 Q Let me scroll. Okay. Now I'm at the  
4 second tab: "Price List." Do you know who created  
5 this?

6 A It would have been copied from, I believe, the  
7 list that Jenny provided, with the amounts that they were  
8 quoting.

9 Q And did Airgas add in the notes under the  
10 "Notes" column?

11 A Somebody would have.

12 Q Between notice given to BWS on  
13 February 6th of 2023 that Airgas would be terminating the  
14 lease and leaving the property, and -- up until the  
15 time -- again, not wanting anything from counsel -- up  
16 until the time counsel was engaged -- again, not wanting  
17 to know anything about that -- tell me about your  
18 communications -- or tell me about Airgas's  
19 communications with anyone at BWS.

20 A After notice was sent?

21 Q Yes. After February 6th.

22 A It would have been by email.

23 Q And who would have been communicating with BWS  
24 from Airgas?

25 A I'm only aware of any communications I had.

1 Q Were there communications you had with her about  
2 the lease, the 2022 to 2023 lease?

3 A When?

4 Q After February 6th, up until the time counsel  
5 became involved. Again, not wanting to know anything  
6 about communications with counsel.

7 A I'm not sure. I would have to look back and  
8 see.

9 Q Did Airgas have any communications with third  
10 parties -- meaning anyone that isn't Airgas or BWS --  
11 about the property or the lease?

12 A I'm not aware of anything.

13 Q After the February 6 notice was given to BWS,  
14 again, up until counsel became involved -- not wanting  
15 to know anything from counsel -- what were -- tell me  
16 about any additional communications internally within  
17 Airgas about the lease, the property or vacating the  
18 property.

19 A I know that Peter -- or I'm not really sure  
20 when Peter met somebody at the property to give us a  
21 quote to do repairs or -- I'm not sure exactly when  
22 that was.

23 MS. WOLINSKY: Can you guys give me just a  
24 second.

25 THE WITNESS: Of course.

1 project at the property.

2 Q And, when you say "request for money," is this  
3 an internal Airgas request or submitted to an outside  
4 party?

5 A Internal, for capital improvements.

6 Q Other than the communications between Airgas and  
7 BWS that we've already discussed today, what other  
8 communications do you recall or are you aware of Airgas  
9 having with anyone at BWS between June 1, 2022, and the  
10 time that a lawsuit was initiated? Again, not asking for  
11 anything discussed with your counsel.

12 A I'm not aware of anything outside of my own  
13 conversations.

14 Q Other than the communications we've already  
15 talked about between -- or within Airgas, between Airgas  
16 representatives and individuals, employees, between the  
17 time of June 1, 2022, the initiation of a lawsuit --  
18 again, not asking for attorney communications -- what  
19 other communications do you recall internally or are you  
20 aware of happening within Airgas?

21 A Outside of just relocating and doing the  
22 improvements at the other property.

23 Q And, when you said the -- the first part of your  
24 answer, are there any other ones, unrelated -- unrelated  
25 to improvements at the other property, that we've not

1 already talked about; and, if so, can you please  
2 elaborate on those.

3 A I'm not aware of anything.

4 Q And, then, other than the communications  
5 we've talked about between Airgas and any third-party --  
6 so outside of BWS and Airgas -- between June 1, 2022,  
7 and the initiation of the lawsuit -- again, not  
8 talking about any attorney communications -- are  
9 there any other communications that you recall or are  
10 aware of?

11 A None that I recall.

12 Q Going back to what we talked about, in preparing  
13 for today's deposition, did you only look at select  
14 documents from Airgas's production; or did you look back  
15 through all of them? And I'm not asking for attorney  
16 communications.

17 A I did not go back through everything that I  
18 uploaded, no.

19 Q Did you only look at a small section of them, or  
20 would you say you looked at fifty percent of them or more  
21 than fifty percent of them?

22 A Less than fifty percent.

23 Q And did you go back and look at all of Airgas's  
24 discovery responses, including the supplemental discovery  
25 responses?

## C E R T I F I C A T E

STATE OF TENNESSEE

COUNTY OF HAMILTON

I, Robin Lee Fouraker, Court Reporter and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in machine shorthand and thereafter reduced to computerized transcript; that said deposition is a true record of testimony given by said witness; that I am neither counsel for, related to nor employed by any of the parties to the action in which this deposition was taken and further that I am not a relative or employee of any attorney or counsel employed by that parties hereto nor financially or otherwise interested in the outcome of the action; that said deposition has in no manner been changed or altered since same was given by said witness but that the same has remained in my possession up to the time of delivery.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of May 2025.



A handwritten signature in blue ink that reads "Rob Lee Fouraker".

Robin Lee Fouraker, LCR, RDR, CRR

Tennessee LCR Number: 021

My commission expires: October 27, 2026.